

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TIFFANY RECINOS,

Plaintiff,

v.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Defendant.

CASE NO. 2:23-cv-791 MJP

ORDER DISMISSING CASE WITH
PREJUDICE

This matter comes before the Court on Plaintiff's Amended Complaint. ("AC" (Dkt. No. 50).) The Court previously issued an Order sua sponte dismissing the Complaint under 28 U.S.C. § 1915(e)(1) for failure to state a claim for relief. (Dkt. No. 40.) The Court found that Plaintiff Tiffany Recinos's complaint was devoid of any factual allegations that would give rise to relief and that she failed to explain how the Equal Employment Opportunity Commission ("EEOC") was involved in her employment claims. (See Order at 4-5.) The Court gave Recinos thirty (30) days to file an amended complaint to fix the deficiencies in the complaint. (Id. at 7.)

1 Recinos filed an Amended Complaint within the thirty day timeline, however, the
2 Amended Complaint fails to address the issues identified by the Court. Recinos initially brought
3 this action against the EEOC. Her Amended Complaint now names the Washington State
4 Employment Security Department, Maxim Healthcare, and Concerto Healthcare as Defendants.
5 (AC at 2.) Recinos brings claims under both federal question and diversity jurisdiction. Neither
6 provides an avenue of relief.

7 Recinos brings claims against the newly named Defendants under “Title IV of the Civil
8 Rights Act of 1963,” the Equal Pay Act of 1963, the Rehabilitation Act of 1973, and the Civil
9 Rights Act of 1991. However, she fails to allege any facts that would give rise to relief under
10 these. The Civil Rights Act of 1963 was proposed legislation that aimed to end racial
11 discrimination in the United States. It did not pass, meaning it is not a law that someone can
12 bring a claim for relief under. There is the Civil Rights Act of 1964, which may be what Recinos
13 is referencing. But Title IV of the Civil Rights of 1964 relates to desegregation of public schools.
14 Recinos’ claims are regarding her employment and make no reference to segregation in public
15 schools. Recinos fails to allege any facts that would give rise to a claim for relief under Title IV
16 of the Civil Rights Act of 1964.

17 The Equal Pay Act of 1963 prohibits sex-based wage discrimination. The crux of
18 Recinos’ Amended Complaint is that she was unjustly fired and is owed unemployment benefits
19 and backpay. Nowhere in Recinos’ Amended Complaint does she allege her employer paid her
20 male counterparts differently. As such, Recinos does not have a claim for relief under the Equal
21 Pay Act. Similarly, the Rehabilitation Act of 1973 prohibits discrimination against people with
22 disabilities by federal agencies, federal contractors, or programs receiving federal funds. Not
23 only does Recinos fail to allege she has a disability, but it does not appear that any of the newly
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1 named Defendants are federal agencies, federal contractors, or receive federal funds. Recinos
2 fails to state a claim for relief that is plausible under the Rehabilitation Act.

3 Finally, the Civil Rights Act of 1991 provides protection against discrimination and
4 harassment in the workplace. Though Recinos alleges that she received a COVID-19
5 immunization despite it being against her religion, she does not allege that she was terminated
6 due to her religious beliefs or any other protected criteria. Rather, Recinos states that she worked
7 as a nurse caring for “home health patients” and ultimately had to get immunized for COVID-19
8 in order to continue working. (AC at 4.) But, after her employer took her out of a home
9 placement, the employer never reassigned her, and she was ultimately terminated. (*Id.*) Again,
10 these allegations do not include any claims of discrimination or harassment. Recinos does not
11 have a claim for relief under the Civil Rights Act of 1991.

12 Because Recinos’ Amended Complaint is about unemployment benefits, which is a State
13 law based claim, and having found that Recinos’ fails to state a claim for relief under federal
14 law, the Court turns to whether it has diversity jurisdiction. It does not. Recinos brings claims
15 against a Washington State agency and two Washington State corporations. Diversity jurisdiction
16 requires each plaintiff’s citizenship to be diverse from each defendant’s citizenship and the
17 amount in controversy must exceed \$75,000. 28 U.S.C. § 1332(a). Here, all the parties involved
18 are from Washington state. And though Recinos claims the amount in controversy is worth \$3.25
19 million, the amount alone is not enough to satisfy diversity jurisdiction. The Court finds that is
20 does not have jurisdiction.

21 Because Recinos’ Amended Complaint fails to articulate any facts that would plausibly
22 lead to relief, the Court DISMISSES Recinos’ Amended Complaint with prejudice. Pursuant to
23 Federal Rule of Civil Procedure 15(a)(2), courts should “freely give leave [to amend] when
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1 justice so requires” and “requests for leave should be granted with ‘extreme liberality.’” See
2 Moss v. U.S. Secret Serv., 572 F.3d 962, 972 (9th Cir. 2009). “Dismissal without leave to amend
3 is improper unless it is clear . . . that the complaint could not be saved by any amendment.” Id.
4 “The district court’s discretion is particularly broad in cases such as this, where [Plaintiff] has
5 previously been granted leave to amend and fails” to remedy the prior complaint’s defects.
6 Rubke v. Capitol Bancorp, Ltd., 551 F.3d 1156, 1167 (9th Cir. 2009).

7 Recinos was given an opportunity to fix the defects in her initial complaint, which were
8 outlined by the Court in its previous Order Dismissing the Complaint. Recinos failed to address
9 any of the issues. Her Amended Complaint brings new claims against new Defendants and
10 consists of conclusory allegations with no factual support. Recinos’ Amended Complaint cannot
11 be saved by further amendments. The Court DISMISSES the Amended Complaint with
12 prejudice. All of Recinos’ pending motions are DISMISSED as moot.

13 The clerk is ordered to provide copies of this order to all counsel.

14 Dated August 21, 2023.

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16 Marsha J. Pechman
17 United States Senior District Judge
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